

**CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**TO:** Planning Commission  
**FROM:** Richard Thompson, Director of Community Development  
**BY:** Eric Haaland AICP, Associate Planner  
**DATE:** June 10, 2009  
**SUBJECT:** Consideration of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Duplex at 121 24<sup>th</sup> Street.

**RECOMMENDATION**

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **APPROVE** the subject request

**APPLICANT/OWNER**

Richard Ballew  
121 24<sup>th</sup> Street  
Manhattan Beach, CA 90266

**L O C A T I O N**

<u>Location</u>	121 24 <sup>th</sup> St between Highland & Ocean Dr. (See Site Location Map).
<u>Legal Description</u>	Lot 13, Block 3, Peck's MB Tract
<u>Area District</u>	III

**L A N D U S E**

<u>General Plan</u>	High Density Residential	
<u>Zoning</u>	RH, Residential High Density	
<u>Land Use</u>	<u>Existing</u>	<u>Proposed</u>
	1,939 sq. ft. Duplex	2,393 sq. ft. Duplex.
<u>Neighboring Zoning/Land Uses</u>	North	RH/Duplex
	South	RH/Duplex
	East	RH/Residential
	West	RH/Duplex

**P R O J E C T D E T A I L S**

	<u>Proposed</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	2,700 sq. ft.	2,700 sq. ft. min
Building Floor Area:	2,393 sq. ft.	4,590 sq. ft. max.
Height	30 ft.	30 ft. max.
Parking:	2 enclosed spaces	2 enclosed, 2 unenclosed spaces (*)
Vehicle Access	24 <sup>th</sup> Place	N/A
Setbacks		
Front (west)	2 ft.	5 ft. (*)
Rear (east)	16 ft.	5 ft. min
Interior Side (north)	3 ft.	3 ft. min.
Usable Open Space	Lower Unit - 37 sf	220 sf min.
	Upper Unit - 167 sf (620 sf existing)	220 sf min.

(\*) – Minor remodel project may remain nonconforming for setbacks and parking.

## **BACKGROUND**

The subject site fronts on a walk street (24<sup>th</sup> St.) and abuts an alley (24<sup>th</sup> Pl.) at the rear. A Coastal Development Permit is required because the project includes a greater-than-10% addition within the appealable portion (where a decision is appealable to the State Coastal Commission) of the Coastal Zone. A public hearing is required, without the option of a waiver, because the application includes a Minor Exception request for reduced useable open space. Most appealable coastal permit applications involving single-family homes and duplexes successfully proceed administratively through the waiver process provided by the coastal program. Such applications that require supplemental approvals such as minor exceptions, variances, use permits, and subdivision maps, must be reviewed by the Planning Commission at a public hearing.

## **DISCUSSION**

The applicant proposes to construct a 453 square foot addition to a 2-story duplex building on a standard walk street lot in the beach area. The proposed upper unit addition would replace most of an existing outdoor deck area above the attached rear garage.

The project generally conforms to coastal program zoning requirements. The resulting 2,393 square feet of total floor area would be 52% of the site's allowable 4,590 square feet. The existing 2-story building height would remain, where a 3-story height is permitted. While the building's existing front yard setback is nonconforming, the rear portion being modified has conforming side yards and triple the minimum rear setback. Only two of the four required parking spaces exist, however, some surplus driveway area is available for parking. Since this project is considered a minor remodel, the code permits the building's nonconforming parking and front setback to remain.

The project's loss of useable open space does require approval of a Minor Exception. The 657 square feet of existing countable open space for the property is provided by small front patio and deck areas, and the large rear deck area where the subject addition is proposed. The required amount is 440 square feet, but the resulting amount would be 204 square feet after replacing most of the rear deck area with living area. Section 10.84.120 of the zoning code (attached) provides for Minor Exception approval of reduced open space for "dwelling units that are largely 2-story in 3-story zones". In order to approve this type of Minor Exception, the following findings must be made:

- a. The proposed project will be compatible with properties in the surrounding area, including, but not limited to, scale, mass, orientation, size and location of setbacks, and height.
- b. There will be no significant detrimental impact to surrounding neighbors, including, but not limited to, impacts to privacy, pedestrian and vehicular accessibility, light, and air.
- c. There are practical difficulty which warrants deviation from Code standards, including, but not limited to, lot configuration, size, shape, or topography, and/or relationship of existing building(s) to the lot.
- d. That existing non-conformities will be brought closer to or in conformance with Zoning Code and Building Safety requirements where deemed to be reasonable and feasible.
- e. That the proposed project is consistent with the City's General Plan, the purposes of this title and the zoning district where the project is located, the Local Coastal Program, if applicable, and with any other current applicable policy guidelines.

Staff believes that these findings can be made since the resulting building will be well below the maximum size, and the new construction will be small in scale and compatible with the neighborhood. The project is also consistent with the intention of this specific type of Minor Exception, which is to encourage lower buildings rather than prompting property owners to add upper floor levels as a result of open space requirements.

Staff also finds that that the project will comply with applicable coastal program regulations. The project is consistent with policies II.B 1, 2, 3 of the City's Local Coastal Program which seek to maintain neighborhood building scale, control residential building bulk, and establish building height standards.

## **PUBLIC INPUT**

A public notice for the project was mailed to property owners and residents within 100 feet of the site and published in the Beach Reporter newspaper. Staff has received a few inquiries, but no opposition has been received from project neighbors or other members of the community.

## **ENVIRONMENTAL REVIEW**

The Project is Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15301 & 15332 based on staff's determination that the project is a minor infill development and will not have a significant impact on the environment.

## **CONCLUSION**

Staff supports the request finding that the project: 1) meets the findings required to approve a Minor Exception, 2) conforms to applicable zoning objectives and development standards, 3) is not expected to have a detrimental impact on nearby properties; 4) is consistent with the goals and policies of the General Plan, and; 5) would conform to the City's Local Coastal Program.

A draft resolution of approval is attached, which would act as the project minor exception approval and coastal development permit, if the project is approved by the Commission with no further appeal. Several standard conditions typically included have been placed in the resolution as well as project specific conditions.

### Attachments:

- Draft Resolution No. PC 09-
- Vicinity Map
- Minor Exception Code
- Development Plans (separate - NAE)

(NAE = not available electronically)

c: Richard Ballew, Applicant/Owner  
David Watson, Project Architect

**RESOLUTION NO PC 09-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT PERMIT AND MINOR EXCEPTION TO ALLOW CONSTRUCTION OF AN ADDITION TO AN EXISTING DUPLEX WITH REDUCED OPEN SPACE ON THE PROPERTY LOCATED AT 121 24<sup>TH</sup> STREET  
(Ballew)**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on June 10, 2009 to consider an application for a Coastal Development Permit and Minor Exception for the property legally described as Lot 13, Block 3, Peck's Manhattan Beach Tract, located at 121 24<sup>th</sup> Street in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Coastal Development Permit and Minor Exception is Richard Ballew, the property owner.
- D. The applicant proposes a second story addition of 453 square feet to an existing duplex with a reduction of useable open space to a total of 207 square feet, instead of the required 440 square feet.
- E. The property is located within Area District III and is zoned RH High Density Residential. The surrounding land uses consist of single and multiple family residences.
- F. The General Plan designation for the property is High Density Residential, and the Local Coastal Program/Land Use Plan designation is High Density Residential.
- G. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301, and 15332 based on staff's determination that the project is a minor development/infill project.
- H. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- I. The Planning Commission made the following findings with respect to the reduced open space Minor Exception application:
  - a) The proposed project will be compatible with properties in the surrounding area since the building size will be well below the maximum size permitted and the addition area is small, and at a non-prominent location on the site.
  - b) The project will not be detrimental to surrounding neighbors since the new construction will observe required setbacks, and be well below the maximum height limit.
  - c) Practical difficulties warrant deviation from code standards including demolishing living area or adding an additional building level to achieve conforming open space.
  - d) Existing nonconformities will not be brought into conformance since significant changes are not proposed for those locations and required conformance would not be reasonable.

- e) The project is consistent with the General Plan, the intent of the zoning code, and other applicable policies of the City.
- J. The project is in accordance with the objectives and policies of the Manhattan Beach Coastal Program, as follows:
- a) The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Manhattan Beach Coastal Zone Zoning Code.
  - b) The proposed structure is consistent with building density standards of the Local Coastal Program in that it proposes a floor area ratio factor less than the allowable.
  - c) The proposed structure will be consistent with the 30-foot Coastal Zone residential height limit. This is consistent with the residential development policies of the Land Use Plan, Policy II.B.1-3 as follows:
    1. Maintain building scale in coastal zone residential neighborhoods.
    2. Maintain residential building bulk control established by development standards.
    3. Maintain Coastal Zone residential height limit not to exceed 30'.
- K. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows;
- Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, and adequate public access is provided and shall be maintained along 24<sup>th</sup> Street and 24<sup>th</sup> Place.
- Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.
- L. This Resolution upon its effectiveness constitutes the Coastal Development Permit and Minor Exception approval for the subject project.

**SECTION 2.** The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Coastal Development Permit and Minor Exception subject to the following conditions:

Standard Conditions

1. *Compliance.* All development must occur in strict compliance with the proposal as set forth in the application for said permit, subject to any special conditions set forth below. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. *Expiration.* The Coastal Development Permit shall be approved for a period of two years after the date of approval, with the option for future extensions, in accordance with the Manhattan Beach Municipal Code (MBMC) Section 10.84.090.
3. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
4. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
5. *Assignment.* The permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
  - a. a completed application and application fee as established by the City's Fee Resolution;

- b. an affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
  - c. evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
  - d. the original permittee's request to assign all rights to undertake the development to the assignee; and,
  - e. a copy of the original permit showing that it has not expired.
6. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.
7. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period (if applicable) which is 10 working days following notification of final local action.

#### Special Conditions

8. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
9. The plans shall be in substantial conformance with the plans submitted to the Planning Commission on June 10, 2009.
10. The project shall comply with all requirements of the RS zoning district except for the existing front, rear, and corner side yards, and open space.
11. After completion of the project(s) that is subject to the Minor Exception approval(s), no further addition(s) shall be permitted unless the entire structure is brought into conformance with the current Code requirements. This shall not preclude the submittal of multiple Minor Exceptions that meet the Code established criteria.
12. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of June 10, 2009 and that said Resolution was adopted by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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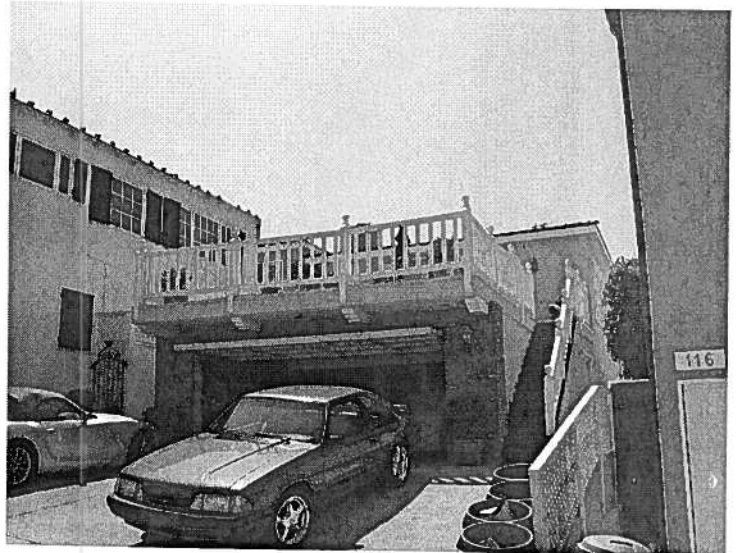
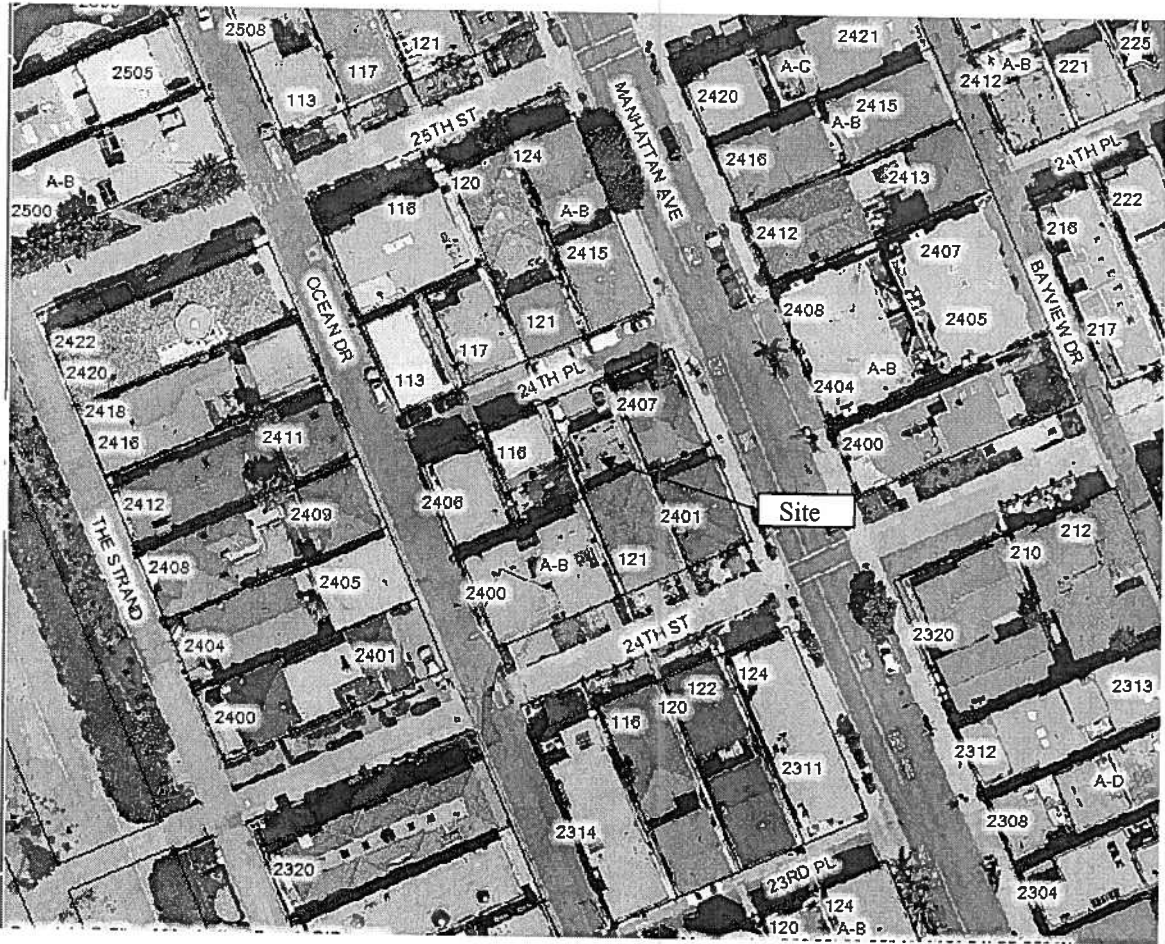
**RICHARD THOMPSON,**  
Secretary to the Planning Commission

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**Sarah Boeschen**  
Recording Secretary



Vicinity Map  
121 24<sup>th</sup> Street



**10.84.120 Minor exceptions.**

The Community Development Director may grant minor exceptions from certain regulations contained in the ordinance codified in this chapter for projects as follows:  
**Valuation No Limitation.** Projects that involve new structures or remodels without limits of project valuation [i.e., may exceed fifty percent (50%) valuation provisions of Section 10.68.030(E)], as provided below. Notice may be required for exceptions to Sections 10.68.030(D) and (E), see subsection A and B of this section for noticing requirements.

Applicable Section	Exception Allowed
10.12.030	Attachment of existing structures on a site in Area District III or IV which result in the larger existing structure becoming nonconforming to residential development regulations.
10.12.030	Site enlargements (e.g., mergers, lot line adjustments), not exceeding the maximum lot area, which result in existing structures becoming nonconforming to residential development regulations.
10.12.030(M)	Reduction in the 15% open space requirement for dwelling units that are largely 1-story in 2-story zones and for dwelling units that are largely 2-story in 3-story zones.
10.12.030(P)	Construction of retaining walls beyond the permitted height where existing topography includes extreme slopes.
10.12.030(T)	Reduction in percentage of additional 6% front yard setback, or 8% front/streetside yard setback on corner lots, required in the RS Zone—Area Districts I and II, 15% open space requirement, side yard setbacks, and/or rear yard setback. This may be applied to small, wide, shallow, multiple front yard, and/or other unusually shaped lots or other unique conditions.
10.12.030(T)	Reduction in percentage of additional 6% front yard setback required in the RS Zone—Area Districts I and II for remodel/additions to existing dwelling units if the additional setback area is provided elsewhere on the lot.
10.12.030(T)	Reduction in percentage of additional 8% front/streetside yard setback required on corner lots in the RS Zone—Area Districts I and II for remodel/additions to existing dwelling units if the additional setback area is provided elsewhere on the lot.
10.12—10.68	Non-compliant construction due to Community Development staff review or inspection errors.
10.68.030(D) and (E), 10.12.030 and 10.12.030(R)	Construction of a first, second or third story residential addition that would project into required setbacks or required building separation yard, matching the existing legal non-conforming setback(s).
10.68.030(D) and (E)	Alterations, remodeling and additions (enlargements) to existing smaller legal non-conforming structures.
10.68.030(E)	Alterations and remodeling to existing legal non-conforming structures.

**A. Minor Exception Application Without Notice.** All applications for minor exceptions may be approved administratively by the Director of Community Development without notice, except as provided in subsection B of this section. Additionally, a minor exception from Section 10.68.030(D) and (E) must meet the following criteria:

1. **Alterations, remodeling, additions (enlargements) to existing smaller legal non-conforming structures.** The total proposed Buildable Floor Area, as defined in Section

10.04.030 which excludes certain garage and basement areas from BFA, does not exceed sixty-six percent (66%) of the maximum allowed (Area Districts III and IV) and seventy-five percent (75%) of the maximum allowed (Area Districts I and II) or three thousand (3,000) square feet, whichever is less .

**2. Alterations and remodeling to existing legal non-conforming structures.** No limit to the total existing Buildable Floor Area, as defined in Section 10.04.030 which excludes certain garage and basement areas from BFA, but no further additions (enlargements) permitted.

**B. Minor Exception Application with Notice.**

1. Applications for minor exceptions from Section 10.68.030(D) and (E) which do not meet the criteria in subsection (A)(1) of this section, may be approved administratively by the Director of Community Development, with notice. A minor exception from Section 10.68.030(D) and (E) must meet the following criteria, and notice as provided in subsection D of this section, must be provided:

**a. Alterations, remodeling, additions (enlargements) to existing smaller legal non-conforming structures.** The total proposed Buildable Floor Area as defined in Section 10.04.030 which excludes certain garage and basement areas from BFA, does not exceed sixty-six percent (66%) of the maximum allowed (Area Districts III and IV) and seventy-five percent (75%) of the maximum allowed (Area Districts I and II) and the Buildable Floor Area exceeds three thousand (3,000) square feet but does not exceed four thousand (4,000) square feet.

**C. Submittal Requirements—All Minor Exceptions Applications.** Applications for all minor exceptions shall be initiated by submitting the following materials to the Community Development Department.

1. A completed application form, signed by the property owner or authorized agent, accompanied by the required fees, plans and mapping documentation in the form prescribed by the Community Development Director.
2. Written statements to support the required findings and criteria of this Code section.
3. A vicinity map showing the location and street address of the development site.

**D. Submittal Requirements—Minor Exception Applications with Notice.**

Applications for minor exceptions with notice shall be initiated by submitting the following materials to the Community Development Department:

1. A completed application form, signed by the property owner or authorized agent, accompanied by the required fees, plans and mapping documentation in the form prescribed by the Community Development Director.
2. Written statements to support the required findings and criteria of this Code section.
3. A vicinity map showing the location and street address of the development site;
4. A map showing the location and street address of the property that is the subject of the application and of all lots of record within three hundred feet (300') of the boundaries of the property; and
5. A list, drawn from the last equalized property tax assessment roll or the records of the County Assessor, Tax Collector, or the City's contractor for such records showing the names and addresses of the owner of record of each lot within three hundred feet (300') of the boundaries of the property. This list shall be keyed to the map required by subsection (D)(4) of this section and shall be accompanied by mailing labels.

**E. Notice to Property Owners—Minor Exception with Notice.** After receipt of a completed Minor Exception application, the Community Development Director shall provide notice to surrounding property owners as provided in subsection D of this section. Said notice shall include: a project description, information regarding where and when project plans can be viewed, a request for comments regarding said exception, and a commenting deadline date. No public hearing shall be required.

**F. Director's Review and Action—All Minor Exceptions.**

1. **Notice of Decision.** After the commenting deadline date, if any, and within thirty (30) days of receipt of a completed application, the Director shall approve, conditionally approve, or deny the required exception. The Director of Community Development shall send the applicant a letter

stating the reasons for the decision under the authority for granting the exception, as provided by the applicable sections of this chapter. The letter also shall state that the Director's decision is appealable under the provisions of subsection K of this section. Notice of the decision also shall be mailed to all those individuals who received the initial notice to property owners described in subsection E of this section.

**2. Findings.** In making a determination, the Director shall be required to make the following findings:

- a. The proposed project will be compatible with properties in the surrounding area, including, but not limited to, scale, mass, orientation, size and location of setbacks, and height.
- b. There will be no significant detrimental impact to surrounding neighbors, including, but not limited to, impacts to privacy, pedestrian and vehicular accessibility, light, and air.
- c. There are practical difficulty which warrants deviation from Code standards, including, but not limited to, lot configuration, size, shape, or topography, and/or relationship of existing building(s) to the lot.
- d. That existing non-conformities will be brought closer to or in conformance with Zoning Code and Building Safety requirements where deemed to be reasonable and feasible.
- e. That the proposed project is consistent with the City's General Plan, the purposes of this title and the zoning district where the project is located, the Local Coastal Program, if applicable, and with any other current applicable policy guidelines.